

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

GERALD ADELMAN,

Plaintiff,

-v-

ING USA ANNUITY AND LIFE
INSURANCE COMPANY,

JUDGE SHADUR
MAGISTRATE JUDGE DENLOW Defendant.

Case No.: _____

08 C 195

**DEFENDANT ING USA ANNUITY AND LIFE INSURANCE
COMPANY'S NOTICE AND PETITION OF REMOVAL**

Pursuant to 28 USC §§ 1332, 1441 and 1446, ING USA Annuity and Life Insurance Company ("ING"), hereby removes the above-captioned lawsuit from the Circuit Court of Cook County, Illinois, County Department/Law Division, Cause No. 2007L013776, to the United States District Court for the Northern District of Illinois, Eastern Division.

1. On or about December 10, 2007, Plaintiff Gerald S. Adelman filed a complaint in the Circuit Court of Cook County, Illinois, County Department/Law Division, naming ING as a defendant.

2. A copy of the Summons and Complaint was first served on the Illinois Director of Insurance on December 14, 2007. Thereafter, on December 18, 2007, the Illinois Director of Insurance sent a copy of the Summons and Complaint to ING. On December 26, 2007, ING received a copy of the Summons and Complaint from the Illinois Director of Insurance. Copies of the Summons and Complaint are attached as Exhibit A hereto.

3. This action is removable under 28 USC § 1441(a). Under Section 1441(a), "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the

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MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

United States for the district and division embracing the place where such action is pending.” 28 USC § 1441(a). This Court has subject matter jurisdiction over the Plaintiff’s claims under 28 USC § 1332, and therefore, these claims are removable under Section 1441(a). Similarly, this court has subject matter jurisdiction and removal power over all other claims pursuant to 28 USC §§ 1367 and 1441.

4. Plaintiff is an Illinois citizen, domiciled in Illinois.

5. ING is an insurance company incorporated and existing under the laws of the State of Iowa and has its principal place of business in the State of Pennsylvania.

6. Thus, this lawsuit is between citizens and domiciliaries of different states, and there is complete diversity of citizenship between the parties.

7. In Plaintiff’s Complaint, he is seeking, *inter alia*, a judgment in his favor in the amount of Five Hundred Thousand Dollars (\$500,000.00). Ex. A, Plaintiff’s Compl., p. 4. While ING denies that Plaintiff is entitled to the relief he seeks, if the Plaintiff receives the requested relief, ING would suffer damages in excess of \$75,000, exclusive of interest and court costs.

PROCEDURAL ISSUES

8. This Notice of Removal is timely pursuant to 28 USC § 1446(b), in that it is being filed within 30 days after filing and Service of the Complaint on ING. Plaintiff’s Complaint was filed on December 10, 2007. It was served on the Illinois Director of Insurance on December 14, 2007. Thus, this notice of removal is timely filed under 28 USC § 1446(b).

9. Under 28 USC § 1441, venue of the removed action is proper in this Court because it is the district and division embracing the place where the state court action is pending. The United States District Court for the Northern District of Illinois, Eastern Division, is the

judicial district and division that includes the Circuit Court of Cook County, Illinois, County Department/Law Division, where the suit was originally filed. 28 USC § 93(a)(1). Therefore, removal to this Court is proper under 28 USC § 1441(a).

10. Upon the filing of this Notice of Removal, ING shall furnish written notice thereof to Plaintiff's counsel. ING shall also file and serve a copy of this Notice with the Clerk of the Circuit Court of Cook County, Illinois, County Department/Law Division, pursuant to 28 USC § 1446(d).

11. Plaintiff has not demanded a jury.

12. This case is being removed by ING in the interests of justice and not for the purpose of delay.

WHEREFORE, Defendant ING USA Annuity and Life Insurance Company, pursuant to 28 USC § § 1332, 1441, and 1446, and in conformance with the requirements set forth in 28 USC § 1446, hereby removes this cause from the Circuit Court of Cook County, Illinois, County Department/Law Division, to the United States District Court for the Northern District of Illinois, Eastern Division.

Dated: January 9, 2008

Respectfully submitted,

**DEFENDANT, ING USA ANNUITY
AND LIFE INSURANCE COMPANY**

By: /s/ Thomas B. Keegan
One of Defendant's Attorneys

Thomas B. Keegan
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CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that he caused a true and accurate copy of the foregoing, **DEFENDANT ING USA ANNUITY AND LIFE INSURANCE COMPANY'S NOTICE AND PETITION OF REMOVAL**, to be filed electronically using the Electronic Filing System of the United States District Court for the Northern District of Illinois, Eastern Division, this 9th day of January, 2008. Notice of this filing was sent to all counsel who are currently on the Court's Electronic Mail Notice List by operation of the Court's Electronic Filing System (with a copy to be mailed to any individuals who do not receive electronic notice from the Clerk) this 9th day of January, 2008.

/s/ Thomas B. Keegan